

**KENTUCKY PERSONNEL BOARD  
MINUTES OF DECEMBER 12, 2014**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chairman Doug Sapp on December 12, 2014, at approximately 9:30 a.m., 28 Fountain Place, Frankfort, Kentucky.

Board Personnel Present:

Wayne "Doug" Sapp, Chairman  
Larry B. Gillis, Vice Chairman  
David B. Stevens, Member  
David F. Hutcheson, Jr., Member  
Tommy W. Chandler, Member  
Donald W. "Don" Blevins, Member  
Amanda Cloyd, Member  
Mark A. Sipek, Executive Director and Secretary  
Boyce A. Crocker, General Counsel  
Linda R. Morris, Administrative Section Supervisor  
Cynthia Perkins, Administrative Specialist

2. **READING OF THE MINUTES OF REGULAR MEETING HELD NOVEMBER 14, 2014**

The minutes of the last Board meeting had been previously circulated among the members. Chairman Sapp asked for additions or corrections. Judge Chandler moved to approve the minutes, as submitted. Ms. Cloyd seconded and the motion carried 6-0. The Board members signed the minutes.

3. **EXECUTIVE DIRECTOR'S REPORT**

Mr. Sipek stated that he, Mr. Crocker, Mr. Gillis and Ms. Cloyd gave a presentation at the Governor's EEO conference held on November 20, 2014. Mr. Sipek stated that they discussed appeals related to discrimination, dismissals, KET, etc.

To date, Mr. Sipek stated that the Personnel Board has 320 active appeals. The Board is being more conservative scheduling evidentiary hearings.

The Board members were given a copy of a draft Settlement Order. Mr. Sipek stated that he spoke with staff at the Kentucky Retirement Systems (KRS) about the Board's Settlement Orders and they approved the new draft language. KRS wants to make sure the Board orders what the parties agree to, but not necessarily approve the terms of the settlement. Mr. Sipek stated that the Board may not need the Settlement Order Guidelines discussed in previous meetings with the Hon. Dinah Bevington, Personnel Cabinet. This can be discussed at the next Board meeting.

Mr. Blevins stated that he has an issue with the word "considered" and said "acknowledged" would be a better word. Judge Chandler suggested "reviewed." Mr. Sipek stated that all Board Orders state "considered." Mr. Blevins asked how the Board can order something it is not a party to. Mr. Sipek stated that if the Board does not issue an order it could affect an employee's retirement benefits. Chairman Sapp stated that an order is issued to get it off the docket, so that the parties can move forward and KRS can act on it, if need be. Mr. Hutcheson stated that by having a Board Order, the parties know they need to complete what they agreed to. Judge Chandler stated that the Board still has authority not to order a settlement.

Mr. Hutcheson moved to approve the Settlement Order form. Judge Chandler seconded and the motion carried 5-1, with Mr. Blevins opposing.

Mr. Sipek stated that the new Settlement Order will begin with the December 2014 Orders.

At the conclusion of Mr. Sipek's report, Chairman Sapp called for the Personnel Cabinet's report.

#### **4. PERSONNEL CABINET'S REPORT**

The Hon. Dinah Bevington, Executive Director, and Commissioner Mary Elizabeth Bailey came forward to present the Personnel Cabinet's report.

##### Requests for amendments to regulation 101 KAR 1:325, Probationary Period.

Ms. Bevington stated that requests for amendments to probationary periods were submitted by the Transportation Cabinet and Department of Veterans Affairs, which the Board members have a copy of. In addition to the requested changes, Ms. Bevington stated that the Kentucky Human Resource Information System (KHRIS) uses an eight-digit Title Code for each Job Classification that replaces the four-digit code in the regulation and this would be a good time to change those too. Ms. Bevington stated she would provide the Title Code numbers to the Board.

The Transportation Cabinet requested that the Personnel Board amend the probationary period from twelve months to six months for the Right of Way Agent I classification.

Mr. Hutcheson moved to approve the Right of Way Agent I classification probationary period from twelve months to six months. Mr. Gillis seconded and the motion carried 6-0. (Dr. Stevens was not present for this vote.)

Mr. Gillis asked why Veterans Affairs has increased probationary periods to the Veterans Benefits Field Representative I and Veterans Benefits Regional Administrator, but not to the Veterans Benefits Field Representative II classification. Chairman Sapp asked Ms. Bevington to check on this and to respond before the Board goes into closed session.

After having checked with Veterans Affairs, Ms. Bevington reported that Veterans Benefits Field Representative II is a classification to which employees are reclassified and would not serve a probationary period.

Mr. Blevins moved to approve the probationary period from six months to nine months for the Veterans Benefits Field Representative I and Veterans Benefits Regional Administrator. Mr. Hutcheson seconded and the motion carried 7-0.

#### Audit of the 2013 Annual Performance Evaluations

Commissioner Bailey stated that there was an improvement completing evaluations due to employees taking on-line training and being more involved with the process.

Twenty-four thousand merit employees were evaluated. Eighty-six percent were rated in the top two categories. Commissioner Bailey thought this was high and may not be accurate, but it is the only way to award employees with either a one-day or two-day annual leave benefit. Eight employees were in the "unacceptable" range and were either dismissed or demoted. Some managers put employees on a Performance Improvement Plan (PIP) if they are in the lowest ratings.

Commissioner Bailey stated that evaluations go through two audit processes. The first is "technical" which includes checking for math errors in the scores, checking that signatures are in red ink, and making sure that they are timely. The second is "quality" which ensures the interim comments support the ratings.

Following the Personnel Cabinet's report, Chairman Sapp called the parties forward for the first oral argument.

### **5. ORAL ARGUMENTS**

#### **A. Kimberly Coomes v. Justice and Public Safety Cabinet (Corrections) (2014-70)**

Present for oral arguments were the Appellant and counsel for Appellee, the Hon. Ed Baylous. After presenting oral arguments, the parties answered questions from the Board.

#### **B. Douglas Neal v. Justice and Public Safety Cabinet (Corrections) (2014-114)**

Present for oral arguments were the Appellant and counsel for Appellee, the Hon. Stafford Easterling. After presenting oral arguments, the parties answered questions from the Board.

[Dr. Stevens arrived at 10:45 a.m.]

**6. CLOSED SESSION**

Mr. Blevins moved that the Board go into Executive Session for the purposes of discussing complaints, proposed or pending litigation, and deliberations regarding individual adjudications. Dr. Stevens seconded. Chairman Sapp stated that the motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. Pursuant to KRS 61.810(1) (c), (f), and (j), the Kentucky Open Meetings Act, the Board will now retire into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action are as follows, because there will be discussion of proposed or pending litigation against or on behalf of the Board; and deliberations regarding individual adjudication. The motion carried 7-0. (11:05 a.m.)

Mr. Hutcheson moved to return to open session. Mr. Blevins seconded and the motion carried 7-0. (12:08 p.m.)

**7. CASES TO BE DECIDED**

**The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments where applicable.**

**A. Kimberly Coomes v. Justice and Public Safety Cabinet (Corrections)  
(2014-70)**

Mr. Hutcheson, having noted Appellant's exceptions, Appellee's response and oral arguments, moved to accept the recommended order dismissing the appeal. Dr. Stevens seconded and the motion carried 7-0.

**B. Douglas Neal v. Justice and Public Safety Cabinet (Corrections) (2014-114)**

Judge Chandler, having noted Appellant's exceptions and oral argument, moved to defer this matter to the next Board meeting. Dr. Stevens seconded and the motion carried 7-0.

**C. ~~Francisco Barroso v. Cabinet for Health and Family Services (2014-024 and  
2013-268) (Special leave and dismissal—appeal dismissed)  
(Deferred from Nov. Meeting) Settled~~**

**D. Bethany Cook v. Justice and Public Safety Cabinet (Corrections) (2013-098)  
After Remand (Deferred from Nov. Meeting)**

Mr. Blevins, having noted Appellant's exceptions (returned as untimely filed, but accepted by Board vote) and Appellee's response (accepted by Board), moved to accept the recommended order dismissing the appeal. Mr. Gillis seconded and the motion carried 7-0.

**E. Kimberly Dickerson v. Cabinet for Health and Family Services (2014-027)**

Judge Chandler, having noted Appellee's exceptions, moved to accept the recommended order sustaining the appeal to the extent of reversing a four-grade demotion and imposing a two-day suspension. Dr. Stevens seconded and the motion carried 7-0.

**F. Nancy Baldwin v. Tourism, Arts & Heritage Cabinet (2014-131)**

Mr. Blevins moved to accept the recommended order dismissing the appeal. Mr. Hutcheson seconded and the motion carried 7-0.

**G. Kevin M. Brodie v. Justice and Public Safety Cabinet (Corrections)  
(2014-126)**

Mr. Blevins moved to accept the recommended order dismissing the appeal. Ms. Cloyd seconded and the motion carried 7-0.

**H. James D. Osborne v. Justice and Public Safety Cabinet (Corrections)  
(2014-156)**

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Mr. Gillis seconded and the motion carried 7-0.

**I. Brandy Randall v. Justice and Public Safety Cabinet (Corrections)  
(2014-056)**

Mr. Gillis moved to accept the recommended order dismissing the appeal. Judge Chandler seconded and the motion carried 7-0.

**J. Sonja Smiley v. Energy and Environment Cabinet (2013-166)**

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Dr. Stevens seconded and the motion carried 7-0.

**K. Frank Tedford, III v. Education and Workforce Development Cabinet  
(2014-066)**

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Mr. Gillis seconded and the motion carried 7-0.

**L. Christine C. Thompson v. Department of Veterans' Affairs (2014-200)**

Mr. Blevins moved to accept the recommended order dismissing the appeal. Judge Chandler seconded and the motion carried 7-0.

**M. Edward Wilson v. Cabinet for Health and Family Services and Personnel  
Cabinet (2014-149)**

Mr. Hutcheson, having noted Appellant's exceptions returned as untimely, moved to accept the recommended order dismissing the appeal. Ms. Cloyd seconded and the motion carried 7-0.

**Show Cause Orders – No Response Filed – Appeals Dismissed**

Dr. Stevens moved to find that the Appellants had not responded to the show cause orders and that the recommended orders be accepted dismissing the appeals for failure to timely prosecute the appeal. Mr. Blevins seconded and the motion carried 7-0.

M. Christy Horn v. Personnel Cabinet

N. Stanley F. Kinnis v. Justice and Public Safety Cabinet (Corrections)

**8. WITHDRAWALS**

Mr. Gillis moved to accept the following withdrawal of appeal and dismiss the appeal. Dr. Stevens seconded and the motion carried 7-0.

A. Donna Haney v. Cabinet for Health and Family Services

**9. SETTLEMENTS**

A. Francisco Barroso v. Cabinet for Health and Family Services (2 appeals)

B. Drema Bills v. Finance and Administration Cabinet (2)

C. John K. Bills v. Finance and Administration Cabinet

D. Kandra Gilkison v. Cabinet for Health and Family Services (2 appeals)

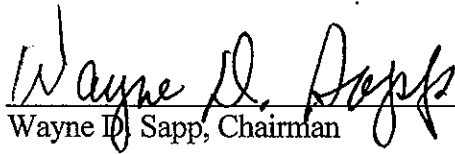
E. LaVonnia McKee v. Education and Workforce Development Cabinet

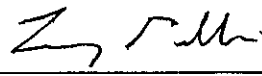
F. Quentin Smith v. Transportation Cabinet

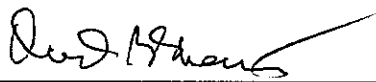
Mr. Hutcheson moved to issue settlement orders *en bloc* as submitted by the parties, and to sustain the appeals to the extent set forth in the settlements. Dr. Stevens seconded and the motion carried 7-0.

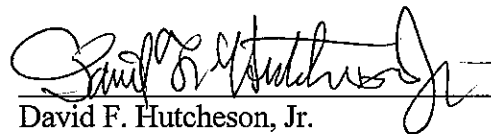
10. **OTHER**

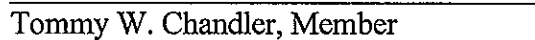
There being no further business, Judge Chandler moved to adjourn. Dr. Stevens seconded and the motion carried 7-0. (12:15 p.m.)

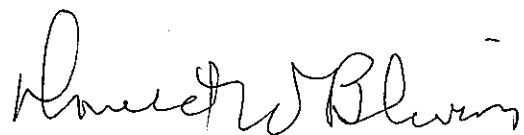
  
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